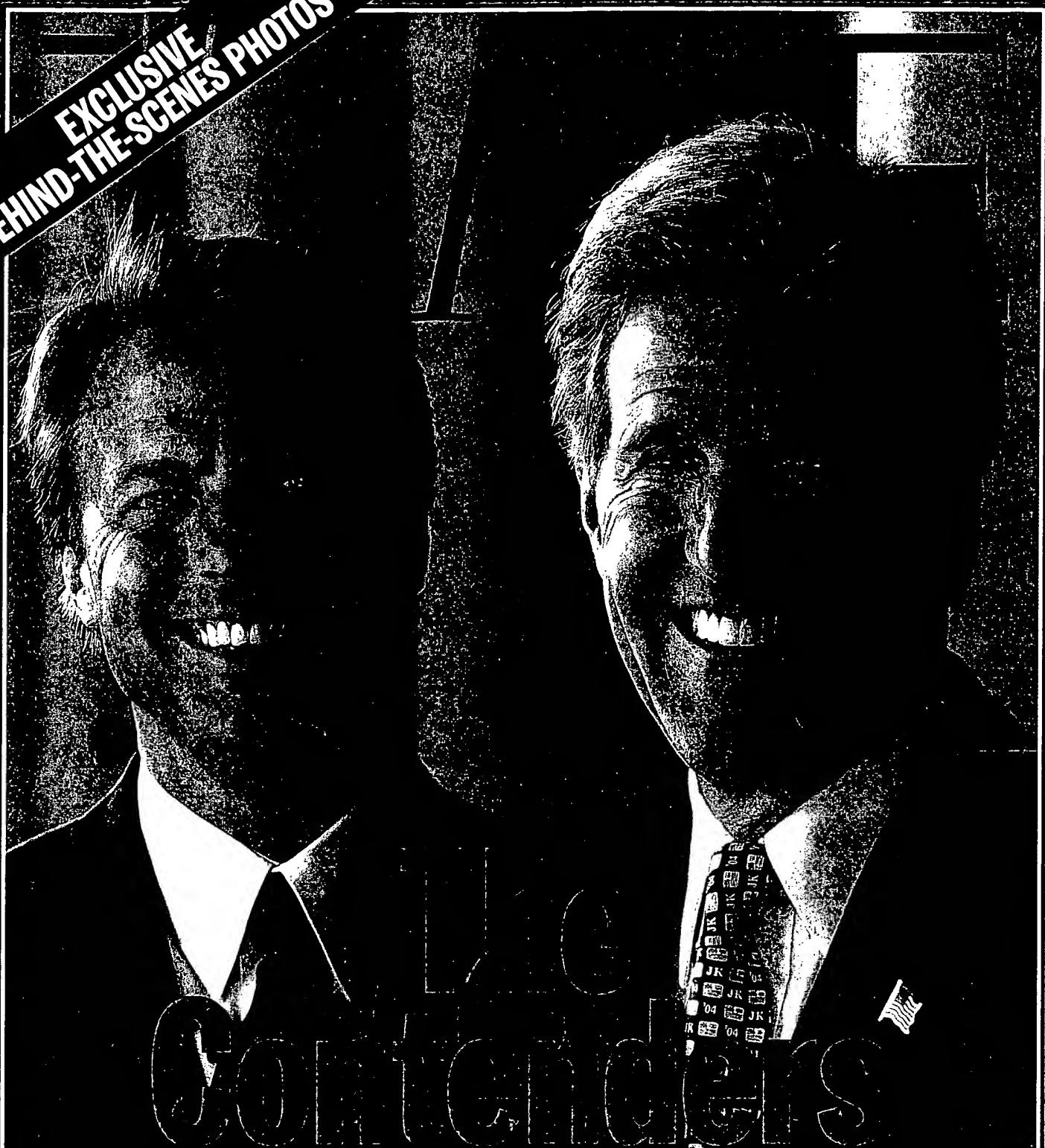


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## Allergic to Wheat?

Millions are without knowing it—but a simple test can help you find out

By MICHAEL D. LEMONICK

If you come down with celiac disease this week, you might not know it until 2015. It's not that the illness is symptom free. Caused by a severe allergy to gluten (a protein found in wheat and other grains), the disease can cause diarrhea, gas, cramping and weight loss—which is why doctors often mistakenly assume it's irritable bowel syndrome. Or it might show up instead as joint pain, or fatigue, or a skin rash.

No wonder celiac disease is known as the great pretender, and why it takes an average of

11 years to diagnose. An expert panel convened by the National Institutes of Health last month estimated that some 3 million Americans may suffer from the illness—10 times as many as doctors once thought. The disease is not just discomforting; gluten from wheat, rye, barley and several other grains triggers an immune response that attacks the lining of the intestines, cutting down on the absorption of calcium, iron and other nutrients.

Over time, says Dr. David Elliott, director of the Celiac Clinic at the University of Iowa medical center, celiac disease can lead to osteoporosis, anemia and severe weight loss.

There is also an increased risk of diabetes, thyroid disease, liver disease and arthritis. Fortunately, celiac disease has become a lot easier to diagnose in the past few years, thanks to more reliable blood tests. If the results are positive, a quick biopsy of the small bowel provides a definitive verdict. The trick now, say experts, is to teach primary-care doctors to recognize the symptoms and test for the disease.

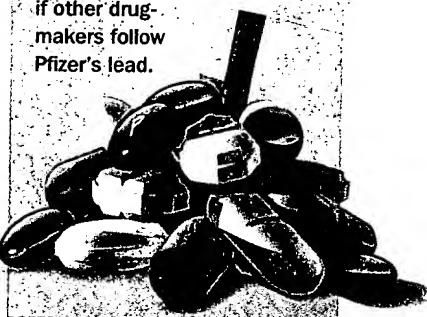
Unfortunately, there's no cure for celiac disease, which seems to be caused by a genetic defect. But there is a remedy that's 100% effective: stay away from gluten. That isn't as easy as it sounds. Breads and cereals are obvious sources of the offending protein, but it's also used—and not always labeled—as an additive in cold cuts, soups, soy sauce, malt vinegar and even jelly beans.

Finding hidden ingredients could get easier if Congress passes the new labeling bill that's scheduled to come to a vote this week. The law would require manufacturers to identify wheat and other troublesome grains on product labels. And although it wouldn't require a label for gluten per se, it does instruct the Department of Health and Human Services to define what it means by "gluten free." Meanwhile, says Elliott, if you have received a diagnosis of celiac disease, you should consult a professional dietitian about how to rid your diet of gluten.

### PHARMA CHARM

Recent public-opinion surveys put the pharmaceutical industry in the unpleasant company of cigarette makers and oil giants, which may help explain why U.S. drug companies have been so eager to polish their image. Pfizer, maker of such blockbusters as Lipitor, Viagra and Zoloft, announced last week that it will provide discounted drugs to uninsured Americans, regardless of age or income. Average savings for families making less than \$45,000 could be nearly 40%. Pfizer is also expanding a program that provides free medicine to families making less than \$31,000. With politicians under pressure to lift rules preventing Americans from importing cheaper drugs, don't be surprised if other drug makers follow Pfizer's lead.

TAKE ONE



### PSA REVISITED

The link between PSA blood-test results and prostate cancer has seen its share of controversy; one recent study found that some men developed the cancer even when their PSA readings were normal. A new study suggests that it is the rate of increase in a man's PSA level, not the level itself, that determines the risk of death from the disease. The study found that among 1,100 men with prostate cancer, those whose PSA levels rose more than 2 points in the year before diagnosis were nearly 10 times as likely to die.

### A NEW WINDOW ON THE APPENDIX

The FDA has approved NeutroSpec, a technique that could make it significantly easier to diagnose appendicitis. That's good news because accurate diagnosis is a problem. Half the 700,000 cases of suspected appendicitis in the U.S. each year lack the usual symptoms of fever and pain in the lower right abdomen, and 15% to 40% of all appendectomies prove unnecessary because the appendix turns out to be normal.

The new technique uses a radioactive tracer that binds to an infection-fighting white blood cell. Doctors locate the tracer using an imaging device called a gamma camera. In trials, the technique diagnosed nearly 100% of appendicitis cases within an hour. The tool may also be able to pinpoint hard-to-locate infections in other tissues.

—By David Bjerkie



ILLUSTRATION FOR TIME BY RICCARDO STAMPORI

**RULE 1.132 DECLARATION OF Thomas Thornton**

**REGARDING COMMERCIAL SUCCESS**



I, Thomas Thornton, declare as follows:

1. I am the President of Sweetlife, Inc. (hereinafter Sweetlife), a Florida based corporation located at 1111 Brickell Avenue 11<sup>th</sup> Floor, Miami Florida 33131.
2. I have been employed as the president of Sweetlife since 2003. I have had a long and successful career in the Food Industry and have built two successful multi-million dollar specialty gourmet stores, Dean and Deluca in New York and Carmine's in North Palm Beach Florida. I have over 15 years in the food industry and I am very familiar with currently available products from a wide variety of low carb and sugar free manufacturers.
3. As a business owner in the food industry, I am familiar with the effort and amount of work needed to build a business in this industry. I have knowledge of the baking industry and am familiar with diet products currently on the market.
4. Sweetlife™ is the distributor of several product mixes which are referred to as Fran Gare's Decadent Desserts® and Fran Gare's Miracle Sweet®. Several flavors exist including cheesecake mix, almond mix and chocolate brownie and cookie mix. These will be referred to hereinafter as "mixes". Sweetlife was formed to develop and distribute the mixes.
4. Fran Gare is the sole inventor of application serial no. 09/759,567. Fran Gare has assigned her rights to Sweetlife in an assignment recorded at Reel No. 011539, frame 0512.
5. The mixes are blended in accordance with the claims of patent application, Serial No. 09/759,567.
6. All of the products as referenced above have an ingredients list clearly visible on the label. Xylitol, whey protein and fiber (psyllium) are all listed and clearly visible. Exhibit A is a label portion used to identify one of the mixes showing the ingredients listing. These ingredients

follow the elements and proportions presently recited in the claims of the above-references patent application.

7. The success of the mixes is due to its ingredients list including Xylitol and a gluten-free (flourless) mixture. The combination of ingredients coact to bring about a superior finished product. The finished product is a baked product or food having all of the features of the present claims and provides a taste of a flour and sugar containing dessert without flour, gluten or sugar.

8. Frank Priedemann, vice president of Abel & Schafer, Inc., a bake mix blending firm stated that the mixes of Sweetlife are unique in their ingredient combinations, beautiful looking and delicious tasting. Mr. Priedemann was so impressed with the mixes he has included them in a line of products that he sells to his own customers. (See Exhibit B)

9. The baked products and mixes are distinguished from other available products currently on the market. The superior quality of the finished product as a result of the blending and proportions set forth in the claims is the reason for the success of the product. It is my belief that without the appropriate proportions of the listed ingredients, the finished product would not provide the superior texture and flavor that has been achieved by the mixes.

10. Because the mixes do not provide the finished product (Sweetlife™ provides the mix) to the end-user and inform them directly about the superior quality of the product and since Sweetlife™ has not advertised or budgeted money for advertising the mixes, the mixes have been sold through word of mouth and presenting the product at food shows.

11. The mixes are very successful. Sweetlife™ currently takes direct orders at shows and by telephone and email. As the word of mouth has spread, Sweetlife™ has continued to get more and more high caliber clients. The client list over the past year has become quite impressive. The client list includes, for example, Junior's of Brooklyn™, H-P Distributors™, and Starwood™, which is a company that owns many hotel chains and spas worldwide including, e.g., Westin™. The list of retailers wanting to carry the mixes has dramatically increased from the time the product was first introduced. Exhibit D is a letter from HP Distributors.

12. Sweetlife™ began operations in 2000, but began selling the mixes in the broader market

in 2002 when the company was able to organize its operations. Between January 1, 2002 and December 31, 2002, Sweetlife sold over \$112,000 (one hundred and twelve thousand dollars) in mixes in the United States. By year-end 2003 the total revenue, was over \$490,000 for the mixes within the United States. The mixes had net sales of \$276,082 for the five months ending June 1, 2004 and would be higher but for the lack of inventory due to an alarmingly high number of orders.

13. Net sales for 2002 were \$112,429 and for 2003 were \$490,936. This represents an increase of over 336%. This result is much greater than the normal expected sales for new products, which is typically a low double-digit growth percentages, especially for brand new products.

14. Actual net sales derived from the mixes exceeded expected sales by about 200%.

15. Bulk weight of mixes sold for each of 2002, 2003 and 2004 (first half) shows an exponential growth in the volume of sales. In 2002, 2,625 pounds of the mixes were sold. In 2003, 26,559 pounds of the mixes were sold. In the first half of 2004, 52,650 pounds of the mixes were sold.

16. My experience with successful new products has shown that an expected yearly growth rate is between 15-25 %; instead, Sweetlife™ has experienced a growth rate of over 300% and it appears that a triple digit rate will be maintained or increased in the next year.

17. Advertising for mixes since their release included only booths at tradeshows and word of mouth. No formal public relations effort, nor television or radio or newsprint ads were run for the mixes. Advertising budgets for other competing products or mixes are typically orders of magnitude greater than the amount spent (cost of booths and website maintenance) by Sweetlife™ in promoting their mixes.

18. Sweetlife has continued to sell the mixes with similar success to present, despite the lack of advertising.

19. As a result of word of mouth, blenders and bakers got word of the surprising results

obtained by the mixes. Al Rosen, a lifelong baker and owner of Junior's of Brooklyn, which is world renowned for its cheesecakes, tried one of the mixes in his cheesecakes and was astounded by the results. (see Exhibit E). Mr. Rosen was so impressed with the mix and the combination of ingredients; he selected the mix of Sweetlife™ to incorporate into his products, and immediately inquired into becoming a stockholder in the company.

20. The mixes have been extremely successful and once introduced have become an instant favorite with consumers who have been able to incorporate the mixes into its desserts. Sweetlife™ is constantly getting praised for the innovative combination of ingredients, which result in a texture and taste on par or better than desserts containing flour and sugar. In fact, consumers often do not recognize the finished product of the mixes as a sugar-free, gluten-free dessert.

21. Reaction from customers—both distributor customers and the end consumers—has been outstanding. Sweetlife™ consistently hears from these customers and distributors that the mixes fill a long felt need for a sugarless and gluten-free product with the texture and taste of desserts containing flour and sugar. The mixes provide diabetics and sufferers of other food allergies and intolerances with a delicious tasting, healthy dessert. See, e.g., Exhibit F for email of Vance Pasqua.

22. Medical professionals recommend the mixes to their clients and patients as well. One notable case is that of Dr. Fred Pescatore, MD MPH, author of The Hamptons Diet. Dr. Pescatore provided a healthy diet book with few desserts, but listed a Sweetlife™ mix in his book. Dr. Pescatore stated that the in addition to the sugar-free, grain and gluten-free aspects of the unique mix, the taste of the product distinguished it from any other product on the market. (see Exhibit G).

23. The mixes provide a baked product that does not suffer from too much water as some of the water is absorbed by the Xylitol, the whey protein provides the cohesiveness to create a matrix with the fiber to simulate the texture of flour and sugar baked goods. The presently claimed combination of materials is not obvious to those skilled in that art that have desired to make a sugar-free, gluten-free product. The blending and combination of ingredients have been developed as a result of careful processing by the inventor, Dr. Fran Gare, MD. (see Exhibit H)

24. Reverse engineering the combination and proportion of the ingredients has been attempted by many bakers and blenders alike but without success. The failure of others to copy Sweetlife's mixes has contributed to the success of the products. These proportions and combinations of elements are presented in the claims of the present patent application.

25. After tasting the mixes, many skeptics have come to appreciate the difficulties of achieving the proportion and combination of ingredients, which provide the success for Sweetlife's mixes. (See, e.g., Exhibits I and J).

I declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.

Thomas Thornton  
Thomas Thornton  
President, Sweetlife, Inc.

Date:

July 15, 2004

Sworn before me this date 7/15/04

Lisa S. Petersen

Notary Signature



## Nutrition Facts

Serving Size 19g (mix in 1 brownie)  
Servings per Container 9

### Amount per Serving

Calories	50	Calories from Fat	5
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% Daily Value\*

Total Fat	.5 g	1%
Saturated Fat	0 g	0%
Cholesterol	0 mg	0%
Sodium	50 mg	2%
Total Carbohydrate*	14 g	5%
Dietary Fiber	2 g	7%
Sugars	0 g	
Sugar Alcohols	11 g	
Protein	3 g	

Vitamin A	0%	Vitamin C	0%
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Calcium	2%	Iron	0%
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\*Percent Daily Values are based on a 2,000 calorie diet.  
Your daily values may be higher or lower depending on  
your caloric needs.

	Calories	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram  
Fat 9 • Carbohydrate 4 • Protein 4

\*To find Net Carbs, subtract the sugar alcohols  
and the fiber from the total carbohydrates.

INGREDIENTS: Xylitol, Cocoa Powder (Processed With Alkali)  
Whey Protein Isolate, Psyllium Husks, Calcium Caseinate,

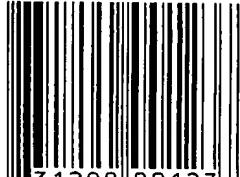
Sodium Caseinate, Xanthan Gum, Salt

①D NON-GMO

Add to Atkins, Bust The Sugar, Zap the Zone,  
Promote Protein Power, Somersize and Sugar-free diets.



A PRODUCT OF  
THE SWEET LIFE, INC.  
MIAMI, FLORIDA  
U.S.A.  
305-682-8392  
PATENT PENDING



8 31290 00123 7

FRAN CARE'S  
**DECADENT  
DESSERTS™**

**2g**

NET CARBS  
PER BROWNIE



# CHOCOLATE BROWNIE & COOKIE MIX

SWEETENED WITH

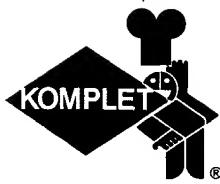
**All-Natural Xylitol**

**SUGAR-FREE • LOW CARBOHYDRATE  
ALL NATURAL • GLUTEN-FREE**

**IDEAL FOR SUGAR-FREE/FLOUR-FREE/LOW-CARB DIET**

\*SEE SIDE PANEL FOR NUTRITION INFORMATION

**Net Wt 6 oz (170 g)**



## ABEL & SCHAFER, INC.

### RULE 1.132 DECLARATION OF Frank Priedemann REGARDING COMMERCIAL SUCCESS

I, Frank Priedemann, declare as follows:

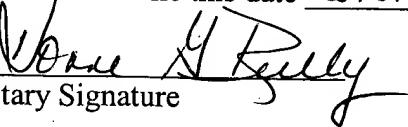
1. I am the Vice President of Abel & Schafer, Inc., (hereinafter Abel), a New York based corporation located at 20 Alexander Ct. Ronkonkoma, NY 11779
2. I have been the vice president of Abel since 1986, and have been in the blending industry for 21 years.
3. Abel is a renowned blender and has many recognizable clients that require our blending services for blending food mixes.
4. Abel has been blending Fran Gare's Decadent Desserts® mixes for The Sweet Life, Inc. Several flavors exist including New York Cheesecake Mix, Chocolate Cheesecake Mix, Almond Mix and Chocolate Mix and Cinnamon Pecan Mix. These will be referred to hereinafter as "mixes".
5. The mixes are an all-natural blend of xylitol, whey protein and fiber, such as, psyllium, crushed nuts or cocoa powder and some have xanthan gum and organic flavors. We have baked these products in our test kitchen and find that although they do not contain sugars or grains (as traditional desserts do) they look and taste as traditional desserts look and taste.
6. I do not have knowledge of any other product mix, which includes Sweet Life's unique ingredient combinations. While other products mixes on the market have sugar-free and grain-free claims, the other product mixes do not provide the texture, appearance and taste that the unique mixes of Sweet Life provide.
7. I have been so impressed with the product mixes due to the ingredient combination, the health benefits and the look and taste of the finished product that I have included Sweet Life mixes in a line of product mixes that I sell to bakeries, hotels, cruise lines, restaurants and spas.

I declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.

  
\_\_\_\_\_  
Frank Priedemann  
Vice President, Abel & Schafer, Inc.

Date: 9/21/04

Sworn before me this date 21st SEPT 2004

  
\_\_\_\_\_  
Notary Signature

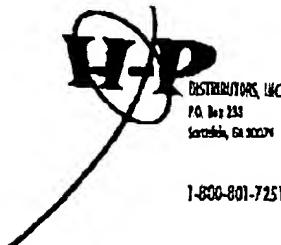
DONNA G. REILLY  
NOTARY PUBLIC, State of New York  
No. 52-4634159  
Qualified in Suffolk County  
Commission Expires  
8/31/06

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HP DIST

PAGE 01



June 3, 2004

Reesa Sokoloff  
The Sweet Life, Inc.  
1111 Brickell Avenue  
11<sup>th</sup> Floor  
Miami, FL 33131

Dear Reesa,

H-P Distributors is pleased to be one of your distributors. Because of the unique ingredients in your products, we have been able to get placement in the weight loss, health, sugar free and allergy sections of most stores. The customers appreciate the fact that there is no aftertaste as there is with most sugar alcohol sweeteners, and people with gluten intolerances are amazed at the texture.

Keep up the good work,

Sincerely,

*Anne E. Horner*

Anne Horner  
President  
H-P Distributors, Inc.

**RULE 1.132 DECLARATION OF Alan Rosen**

**REGARDING COMMERCIAL SUCCESS**

I, Alan Rosen, declare as follows:

1. I am the President of Junior's Cheesecake of Brooklyn, (hereinafter Junior's), a New York based corporation located at 386 Flatbush Ave. Ext. Brooklyn, NY 11201
2. I have been the president since 2000, and have been in the baking and restaurant industry for 15 years.
3. Junior's is a renowned cheesecake manufacturing company known throughout the U.S. Junior's enjoys a reputation for high quality good tasting dessert products.
4. I had long been experimenting with different products to create a sugar-free cheesecake to fill the growing dessert needs of the diabetic and low carb. community. I had exhausted the market place for different product mixes and recipes that would provide a good-tasting cheesecake that met with my high standards. All of these attempts did not meet our high standards.
5. In 2003, one of my brokers introduced me to the mixes of The Sweet Life, Inc. and their absolutely unique and delicious sugar-free, cheesecake mix. After making a cake for the cheesecake mix, the finished cheesecakes was as good as could be with no sugar and meeting all the dietary requirements we had set forth for the product line

6. Mixes for Sweetlife including Fran Gare's Decadent Desserts® and Fran Gare's Miracle Sweet® include several flavors exist including the cheesecake mix. This will be referred to hereinafter as the "mix".

7. The mix includes an all-natural blend of xylitol, whey protein and fiber, such as, psyllium, which due to its sugar-free, gluten-free combination makes it have a unique combination of benefits while maintaining taste and texture of sugar and flour based products.

8. I do not have knowledge of any other product mix, which includes Sweetlife's unique ingredient combinations. While other products mixes on the market have sugar-free and grain-free claims, the other product mixes do not provide the texture, appearance and taste that the unique mixes of Sweetlife provide.

9. I have been so impressed with the product mix due to the ingredient combination, the health benefits and the look and taste of the finished product that I approached one of my largest clients, QVC, which has been my customer for years, to sell cheesecakes made with The Sweet Life's proprietary mix. The results were amazing. In one day, I sold 6,000 cakes in 10 minutes.

10. The ingredients list, the texture (as shown on TV) and our description of the taste created an enormous amount of orders.

11. Since then, the cake has been represented on QVC with enormous popularity. Many of the previous purchasers reordered and new customers ordered the cakes made from the Sweet Life mix.

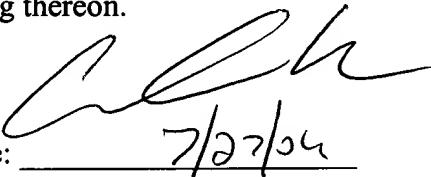
12. I have since made these cakes a part of my line, and sell them to major restaurant, hotel chains, and specialty stores across the country.

13. The Sweet Life's unique all natural, sugar and flour-free mix improved my sales so dramatically that I have inquired about becoming a stockholder in the company.

I declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.

Alan Rosen

Date:

  
7/27/04

Alan Rosen

President, Junior's of Brooklyn, Inc.

Sworn before me this date

28/07/04

Notary Signature

GEORGIA BLAINE  
Notary Public, State of New York  
No. 01BL6056884  
Qualified in Kings County  
Commission Expires April 2, 2007

From: "Pascua, Vance" <VPascua@OaksChristian.org>  
Date: Thu, 20 May 2004 09:22:39 -0700

>Reesa ~  
>  
>Thank you for your phone message. Here's the message below that I sent  
previously to your frangare.com email. Thanks!  
>  
> \_\_\_\_  
>  
>I was checking with you to see what can be done, if anything, about getting  
a price break on ordering a large quantity of the Chocolate Brownie & Cookie  
Mix. We can not find it anywhere near us and it is the only baking mix my  
wife, Diane, seems to be able to do well with. Remember, she is Celiac and  
has severe intestinal/digestion malfunction.  
>  
  
>Please consider and let me know what you think.  
>  
>Thank you for the ways you have helped me to this point. Your product is  
literally a "life saver" for my wife!  
>  
>Blessings,  
>Vance Pascua  
>  
>Vance Pascua  
>Director of Admissions  
>Oaks Christian School  
>31749 La Tienda Drive Westlake Village CA 91362  
>818-575-9218 (phone) 818-575-9951 (fax)  
> <<http://www.oakschristian.org/>> <http://www.oakschristian.org/>

**RULE 1.132 DECLARATION OF Dr. Fred Pescatore**

**REGARDING COMMERCIAL SUCCESS**

I, Dr. Fred Pescatore, declare as follows:

1. I am a medical doctor and have practiced general and nutritional medicine for 11 years. I was the former medical director of the Atkins Center for complementary Medicine for five years and have been practicing medicine in my own practice for the past six years and am considered the nation's leading medical authority on the controlled carbohydrate lifestyle.
2. My practice is a broad based Integrative Internal Medicine practice. I believe that proper nutrition is the basis of a healthy lifestyle. Most patients come to see me because they want to feel and look younger, healthier, better, and most of them have disorders created by high carbohydrate diets. This almost always means a comprehensive, nutritious, reduced carbohydrate weight loss program.
3. I recommend The Sweet Life desserts to my patients as I know that the desserts will satisfy their sweet cravings and not engender an insulin reaction in their bodies, I have written four books, many articles and have appeared on Network TV as a Physician Expert on diets for healthy adults and children.
4. My current book, The Hampton's Diet, a national bestseller, provides readers with wholesome, balanced and healthy diet advice and recipes. My book contains many recipes, but few desserts.
5. The dessert recipes that I included in my book had to meet with the high standards that I set out for in the book. It is very important to me that the foods people eat are wholesome and promote a healthy body and lifestyle.
6. Sweetlife's Fran Gare's Decadent Desserts® dessert mixes are recommended as a recipe in the book as these desserts provide a uniquely all natural, sugar-free, grain-free and gluten-free dessert. The dessert mixes provide natural ingredients, fiber and no sugar.

7. In recent years, medicine has discovered that at least 1/2 of all people have a sensitivity to gluten, a protein found in many grains. When ingested, gluten seriously affects the digestive process, inflaming the lining of the stomach and intestines, causing pain, and in extreme cases may cause death (as in Celiac Disease).

8. To my knowledge, all natural sugar-free and gluten-free desserts do not exist in the market place except for desserts made with The Sweet Life mixes. I eat these delicious desserts myself, just because I believe they are healthy, look and taste like high sugar and flour pastries so there is no compromise.

9. I recommend Sweetlife's mixes to my readers and to my patients.

I declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.



Date: 7/20/04

Dr. F. Pescatore

Sworn before me this date 7/20/04



Notary Signature

DINAH PYRONNEAU  
Notary Public, State of New York  
No. 01PY8105851  
Qualified in Kings County  
Commission Expires Feb. 23, 2008

**RULE 1.132 DECLARATION OF Dr. Fran Gare**  
**REGARDING COMMERCIAL SUCCESS AND LONG-FELT NEED**

I, Dr. Fran Gare, declare as follows:

1. I am a shareholder of Sweet Life, Inc. (hereinafter Sweet Life), a Florida based corporation located at 1111 Brickell Avenue 11th Floor, Miami Florida

33131

2. I am a Naturopathic Medical doctor with a degree from Brainridge Forest School, England and The University of Bridgeport, CT. and have been involved as a health practitioner and in food technology and diets for 35 years.

3. I am an accomplished author and researcher in food technology and diets. I authored and coauthored seven books (three best sellers) about better health and diet (four with the famous Dr. Atkins) that sold over 6,000,000 copies. I was Director of Nutrition of The Atkins Center for Clinical Nutrition, Director of Natural Medicine at Miami Heart Hospital and Nutrition Expert for C.B.S. TV syndicated out of Miami, Fl (WFOR).

4. Over the years, there has been a long-standing need and nothing available, for diabetic and gluten sensitive individuals, for healthy, sugar and gluten-free (flour-less) desserts that did not cause an insulin reaction in the body when eaten. (These desserts happen to also be low carbohydrate which is a need that currently exists, and has existed for the past forty years).

5. I am the sole inventor of application serial no. 09/759,567, and I have assigned my rights to The Sweet Life, Inc. in an assignment recorded at Reel No. 011539, frame 0512.

to help their patients. Today doctors all over the country are asking patients to use my mixes. I never dreamed that there would be such a great demand for the product in the commercial market place. Before I could catch my breath, the product was on the shelves of health food stores, in supermarkets, being served in restaurants, spas and even schools. I attribute the success of the products to the special formulation that allows the sweet delicious taste of all natural Xylitol to come through. Xylitol is an all natural sugar alcohol that teaspoon-for-teaspoon is as sweet as sugar. When combined with soy or other low insulin producing fillers the end results were gummy, dense and it's sweetness was masked by the taste of the filler.

*xylitol 72*

10. My discovery is the perfect balance of whey protein and fiber which provides a texture similar to flour-based products currently on the market. It does not, however contain flour or gluten and it allows the sugar-like sweetness of xylitol to linger on the taste buds.

11. In fact, when combined with Xylitol, the whey protein and fiber coact to provide a texture and taste that is on par or better than the sugar and flour based products. When mixed in the appropriate proportions, the xylitol, whey protein and fiber create the perfect confection eliminating the need for intake of sugar and flour-laden foods for those who (for health reasons or personal preference) prefer not to eat them. The moisture produced by baking is absorbed by the Xylitol creating the structure of the fiber and whey protein to produce a superior matrix for the baked product.

12. The mixes of The Sweet Life, Inc. rely on the correct proportions. These proportions are not easily recognized by someone skilled in that art of food technology. I confirmed this when I asked Avigdor Orr from Rutgers University Food Science Laboratory to recreate the mixes.

13. The mixes are blended in accordance with the claims of patent application, Serial No.

6. The Sweet Life, Inc. is the distributor of several product mixes which are referred to as Fran Gare's Decadent Desserts® and Fran Gare's Cheesecakes™. Several flavors exist including New York Cheesecake, Chocolate Cheesecake mixes, Almond Mix, Chocolate Mix and Cinnamon Pecan Mix. The mixes are very versatile since they do not contain any flour, <sup>n sugar</sup> they produce a variety of products including (but not limited to) cakes, cookies, muffins, mousses, ice cream, puddings, buns and cupcakes. These mixes will be referred to hereinafter as "mixes". The Sweet Life, Inc. was formed to develop and distribute the mixes.

7. I developed the mixes as an answer to my over 6000 patients requests to produce desserts that they could guiltlessly enjoy. Desserts that met with the long-felt need of sweet treats that provided without compromise, the taste and texture of regular desserts without the sugar or gluten normally needed to achieve these results.

8. As early as 1972, I had been working on developing sugar and grain-free desserts using soy and artificial sweeteners which was all that were available to me. It was my original formulations using soy and artificial sweeteners that I published in Dr. Atkins Diet Revolution in 1972 and Dr. Atkins Diet cookbook two year later, that were the basis for the plethora of artificially sweetened soy products that are on the market today. Therefore, sugar-free products that used soy instead of flour have been used, but typically required a man-made sugar substitute. Over the years many companies have asked me to develop products like these for them. I knew that they were not healthy. I told my patients, family and friends that if I could find a way to develop a product that could possibly wipe out diabetes and childhood obesity, and make people healthier, that I would retire from medicine and do it, but never believed such a product could exist. Then suddenly it all came together.

9. When I developed the original mix, I took it to other doctors feeling that they could use it

14. Given the strong need for sweet, healthy foods that do not raise insulin levels in diabetics, hypoglycemics and cause hyperactive children to bounce off walls, and the need for healthy, truly low carbohydrate desserts that do not affect the dieters pancreas causing it to secrete insulin, and the size of the diet market (low carb or not-- sugar has to be eliminated to loose weight), one of ordinary skill in the art would not have been able to develop the mixes of the present application, though many have tried. However, it is not easily discernible to one skilled in the art to develop the recipe for the mixes of the present application.

14. All of the products, as referenced above, have an ingredients list clearly visible on the label. Xylitol, whey protein and fiber (psyllium) are all listed and clearly visible. These ingredients follow the elements and proportions presently recited in the claims of the above-references patent application.

15. The combination of ingredients coact to bring about a superior finished product. The finished product is a baked product or food having all of the features of the present claims and provides a taste of a flour and sugar containing dessert without gluten and sugar.

16. The baked products and mixes are distinguished from other available products currently on the market. The superior quality of the finished product as a result of the blending and proportions set forth in the claims is the reason for the success of the product and has satisfied the long-felt need for a sugarless and gluten-free desserts.

17. As a naturopathic medical doctor, who has worked with diabetics and other sugar disorders for 35 years, I recognized a long-felt need for a sugarless and gluten-free product for the

many (30,000,000 diabetics, 35-50% of people with gluten intolerances and more obese children then we wish to count).

18. Many individuals who suffer from these diseases or intolerances do not have the opportunity to eat desserts. By providing a sugar-free, flour-less dessert, these individuals can partake in desserts that are healthy and all-natural.

I declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 8 of the United States Code; and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.

---

Date: D. Fran Gare

Dr. Fran Gare

Sworn before me this date 9/10/04

Charles Flender

Notary Signature

Charles Flender  
Notary Public State of New York  
No. 01FL6092640  
Qualified in Suffolk County  
Commission Exp. 05/27/2007

**THE WESTIN  
CENTURY PLAZA  
HOTEL & SPA**

**Los Angeles**

**2025 Ave. of the Stars  
Century City, CA. 90067  
(310) 551-3386**

**June 3, 2004**

**Reesa Sokoloff M.S, R.D  
The Sweet Life, Inc.  
1111 Brickell Ave.  
11<sup>th</sup> Floor  
Miami, FL 33131**

**Dear Reesa,**  
**Over a year ago, I was given the directive from Starwood corporate to research sugar free, low carb desserts for our menus. Based on my past experience with such desserts, I was a bit hesitant to proceed with a positive outlook.**  
**After countless samples and tastings, I never came across a product I really cared for. Actually, I could not believe on how terrible some of these products tasted. I was beginning to think that I'm the wrong person to ask for this. As a pastry chef, I've always resisted to use sugar substitutes. My suggestions have always been to just eat half the amount.**  
**Recently, I had the opportunity to taste a cheesecake made with The Sweet Life's cheesecake mix. I have to honestly tell you, my first reaction was that of complete surprise. I found myself taking bite after bite, to reassure my taste buds. If I were not first told that this was a sugar free, low - carb dessert, I would have never known.**  
**As mentioned, sugar free low carb desserts have always been a challenge for me. I now really look forward to working with your products to create some of these desserts for our menus. It's good to know that I can offer our guests a product they very much desire, as well as satisfying my need for quality and taste.**

**Sincerely,**

  
**Thomas Henzi**

**RULE 1.132 DECLARATION OF Dr. Fran Gare**

I, Dr. Fran Gare, declare as follows:

1.

I am a shareholder of Sweet Life, Inc. (hereinafter Sweet Life), a Florida based corporation located at 1111 Brickell Avenue 11th Floor, Miami Florida 33131. I am the sole inventor of application serial no. 09/759,567, and I have assigned my rights to The Sweet Life, Inc. in an assignment recorded at Reel No. 011539, frame 0512.

2.

I am a Naturopathic Medical doctor with a degree from Brainridge Forest School, England and The University of Bridgeport, CT. and have been involved as a health practitioner and in food technology and diets for 35 years.

3.

The Sweet Life, Inc. is the distributor of several product mixes which are referred to as Fran Gare's Decadent Desserts® and Fran Gare's Cheesecakes™. Several mix flavors exist including New York Cheesecake, Chocolate Cheesecake, Almond Mix, Chocolate Mix and Cinnamon Pecan Mix. The mixes are very versatile. The mixes do not contain any grain, flour, or sugar, but can produce a variety of products including (but not limited to) cakes, cookies, muffins, mousses, ice cream, puddings, buns and cupcakes. These mixes will be referred to hereinafter as "mixes". The Sweet Life, Inc. was formed to develop and distribute the mixes.

4. At a point and time in 2001, I hired a food technologist, Avigdor Orr, of Rutgers University in New Brunswick, NJ in the Food Technology Department, to attempt to reverse engineer several of the mixes from an ingredients list, which included Xylitol, whey protein and fiber . Mr. Orr's task was to analyze several of The Sweet Life product mixes, in order to reproduce the mixture for quality control without knowledge of the correct proportions.

5. I was informed by the Dean of the Food Technology School at Rutgers University that Mr. Orr held an M.S. in Food Technology and had been involved in many analyses including reverse engineering of food mixes.

6. After significant expense and many attempts at duplicating the mixture, Mr. Orr could not fully or satisfactorily duplicate the look and taste of products developed using the original mixes.

7. The mixes are, in my opinion, very difficult to duplicate and could not be duplicated by those skilled in the art without undue experimentation, and even then, while Xylitol, whey protein and fiber (psyllium) are all listed and clearly visible on the packages, the process and proportions by which the mixes are blended and prepared would not be obvious to practitioners.

I declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.

Date:



Dr. Fran Gare

Sworn before me this date 16 Nov 2004

  
\_\_\_\_\_  
Notary Signature

Charles Flender  
Notary Public State of New York  
No. 01FL6092640  
Qualified in Suffolk County  
Commission Exp. 05/27/2007

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